

COMMISSIONERS APPROVAL

ROKOSCH 

GRANDSTAFF

THOMPSON

CHILCOTT 

DRISCOLL 

PLETTENBERG (Clerk & Recorder)

Date.....November 16, 2007

Members Present..... Commissioner Jim Rokosch,
Commissioner Carlotta Grandstaff, Commissioner Greg Chilcott and Commissioner
Kathleen Driscoll

Minutes: Beth Perkins

Commissioner Thompson attended a meeting in Superior for Mental Health and CDC.

The Board met for a public meeting to adopt a resolution to establish the boundaries of the Ricketts Road Voluntary Zoning District. Present were Planning Director Karen Hughes, Planner Tristan Riddell, and several citizens.

Commissioner Rokosch called the meeting to order and requested Tristan to give an update.

Tristan stated this is over a 40 acre area with over 60 percent on the petition. This is a two step process.

Commissioner Rokosch then opened public comment.

Kelsey Milner stated he is in support of the boundaries.

Jim Olson stated he wanted to form the district to maintain what they have and monitor any further development. He stated he started this because of the storage unit facility that was proposed. All the landowners with the exception of one opposed the facility. He contacted them to create the voluntary district in order to keep control of their neighborhood.

Steve Benedict stated his property was the last piece on Ricketts Road. He owns 9 acres. He is building the storage units. He explained why he would like to put in the storage

units. He stated he sent letters to all the landowners notifying them of his intentions. He tried to be inclusive of their concerns. He stated he did not hear back from anyone until Mr. Olson started the district. He was not invited to participate in the district and attend their meetings. His response is he has bought a piece of land in good faith and wants to develop it. He stated he has not had any contact with any of the landowners other than Mr. Olson. He would like to ask the district to release his piece of land from the district. He will keep his development on the corner of West Main and Ricketts Road. He is in opposition of this district.

Gordon Maus stated he is a resident of Hamilton and part owner of two parcels mentioned by Mr. Benedict. What bothers him is the fact they did not notify the owners of the property surrounding the development. He knows Mike West (co-owner of the storage units with Steve Benedict) and he is familiar with the landowners in the north area. They did not notify the landowners of their intentions for development. In a verbal conversation with Mr. Olson, Steve stated Main Street is beginning to move to the west side of the bridge. To Gordon's knowledge, on all the Main Streets in the counties, there isn't a storage facility on them. This storage unit is out of place here also.

Jim Olson stated he and Marcie Sherwin received a letter from Steve and Mike, and no other landowners did.

Katherine Smith stated she has known Mike West since 1976. There was not a good faith effort to contact everyone. One neighbor's view shed is right at the development. Just because Mr. Benedict and Mr. West's stated that Main Street is moving west, doesn't make it so. She knows change is inevitable but change can be monitored. If this went from residential to commercial, they should have to go through a subdivision review according to MCA 3-5-1. When the meetings happened within one week, Mr. Olson gave Mr. Benedict notice and the information to review. She stated Mr. Benedict has communicated through Mr. Olson and was informed of what had transpired with the voluntary district.

Steve Benedict responded he would like to clarify a few things. He was not required to notify anyone of their intentions of what they were doing with their own property. He felt he was acting in kind. The letters are a cloud on the issue. The issue is whether to create a voluntary zoning district. They are working with Planning so this development will meet the subdivision regulations. They have poured concrete and he doesn't believe that has anything to do with this hearing. He has tried to be cooperative.

Commissioner Rokosch agreed the issue is the zoning district.

Carole Olson stated her point is that they are developing a zoning district. They have lived in their house for 34 years and now they look directly out on this project. They do not want a commercial district in a residential area.

Jim Olson stated when this project started there was a double wide mobile home on this property. When Mike and Steve added to the property, they were required to go through

the subdivision regulations, which they did not do. He took pictures and gave them to the Planning Department. He requested them to stop the development. Planning told him to file a citizen's complaint, so he did. After the citizen's complaint was filed, it was then that Mr. Benedict came in to work with Planning.

Robert Bruce stated the law has spirit.

Mary Lakes stated she is the one whose front yard is next to the development. It is an ugly development obstructing her nice view. It has a big chain linked fence with a barbed wire top. Who wants to look at that? This has been her neighborhood.

Char Jones stated she has owned property for 30 years. Coming across the river is like a refuge from the development within the city. To see this storage unit development sickens her. She would like to see the district formed to have some control over what is constructed there.

Shirley Smith stated she lives north of the construction. She can't believe they purchased the property without thinking ahead. The neighbors want to keep the area like it is. She is in favor of the zoning district.

Steve Benedict stated they have a 6 foot chain linked fence without barbed wire. They have started an irrigation system. He would like to plant ivy up the fence and a hedge to blend into the area and make it nice. They have pitched roofs to go with the theme of Marcus Daly. He would like it to be pleasant and blend with the community and still have a function. No one ever called him and asked what their plans were for the property. The regulations would not let them do anything further than what was planned.

Commissioner Rokosch stated today's meeting is for the zoning district not the development.

Judy Bruce stated she would like to see the development in the zoning committee. They don't know what else Mr. Benedict is planning to do. She would like him to be part of the district.

Commissioner Rokosch requested any further public comment, hearing none he closed public comment and opened Board deliberation.

Commissioner Grandstaff asked Karen for clarification. Karen replied the subdivision process is required when a land owner wants to split the land. When it is residential or commercial, if it is in one unit structurally enclosed, the regulations are not required.

Commissioner Grandstaff stated there are some things that are not boundary issues in the request for commission action. Karen replied it is purely informational.

Commissioner Driscoll stated after viewing the area, she was surprised with the land owners placement within the view shed of a neighborhood. It would have been a good

thing to contact the neighbors and have a conversation with them. This changes the neighborhood and it does affect the landowners. She stated they need to be involved with the Hamilton CPC.

Commissioner Grandstaff made a motion to adopt Resolution No. 2197 creating the district boundaries for the Ricketts Road Voluntary Zoning District. Commissioner Chilcott seconded the motion.

Commissioner Chilcott stated he does not believe the zoning district will change what they expect it to change. He is not sure the zoning district will prohibit or stop the construction of this business.

Commissioner Rokosch stated Commissioner Chilcott's comment needs to be taken into consideration. The proactive land use planning is what they are doing at the moment. They do want to see good economic growth. They do have some mechanisms in the communities and this is one of them.

Commissioner Driscoll stated she thinks this is appropriate for the neighborhood.
All voted 'aye'.

Commissioner Rokosch stated there is a thirty day period to oppose the boundaries.

The meeting was adjourned.

The Board met to appoint members to the Investment Committee. **Commissioner Chilcott made a motion to appoint Klarryse Murphy to serve as the At-large member and Cathy Binando to serve as Ravalli County School District Representative. Commissioner Grandstaff seconded the motion, all voted 'aye'.**

The Board met for final plat approval on Sapphire Meadows subdivision. Planning Staff's Statement of Conditions for final plat approval has been met. **Commissioner Chilcott made a motion to approve final plat of Sapphire Meadows Subdivision. Commissioner Grandstaff seconded the motion, all voted 'aye'.**

The Board met with Road & Bridge Department and Forest Service to discuss past and present agreements with the Commissioners and discuss Middle Burnt Fork Road. Present were Road & Bridge Supervisor Dave Ohnstad, Ken Miller and Amber Lewis from the Forest Service.

Commissioner Rokosch called the meeting to order and gave an overview of the issue at hand.

Dave stated for the past 40 to 50 years the county has had a cooperative working agreement with the Forest Service. They have an ongoing operational agreement dating back to 1965. Their mandate is to keep these roadways operable for the Forest Service, not for commercial, recreational or residential traffic. There is a specific issue with Nez

Perce Road off of West Fork. There have been several roadways granted to the county from the Forest Service such as West Fork Road, East Fork Road, Lake Como Road, Roaring Lion and the Nez Perce Road. Over a period of time the Forest Service has granted the public easement to the county and the Commissioners have accepted them. There is a statutory process of creating a county road. The point today is to discuss and possibly decide on additional easements to dedicate these as county roads. Dave requested the county and the Forest Service clarify these as county roads.

Ken noted the recent ruling of Bear Creek Road in Victor being a public road with a public easement. The question remains: is it Forest Service or county jurisdiction. The Forest Service has granted the county easements. Ken stated in regard to the Nez Perce and Roaring Lion Roads, it was agreed if the Forest Service would pave and maintain these roads up to 3.7 miles, then the county would take jurisdiction of them.

Commissioner Driscoll asked how many miles? Ken replied 10 to 14 miles. Commissioner Grandstaff asked who has been maintaining them all these years. Ken replied the county. Commissioner Chilcott stated the question is: what is a county road.

Dave stated there is an agreement on Lake Como Road from the Forest Supervisor Bertha Gillem requesting the county to accept jurisdiction. Commissioner Rokosch asked if the County Attorney's Office should become involved in this question. Commissioner Chilcott stated the County Attorney's Office does not want to handle it. It is a big question and takes time away from other issues the county staff is involved in.

Ken stated he believes a county resolution would address the matter. Dave stated this is a statewide issue that each county deals with. They have had conversations with County Attorney George Corn involving what constitutes a county road and it is obvious they are not going to resolve this today. What will settle it is an action by the court or an opinion of the County Attorneys Office. Commissioner Driscoll stated she would like to see some facts such as how many roads are involved. Board discussion followed regarding "good neighbor" cooperation. Commissioner Rokosch stated he believes the County Attorney's opinion is the way to go.

Dave stated they are not asking for a decision today, but rather to discuss the options and then make a decision. It needs to get settled. Commissioner Chilcott stated this could be a quick solution to a long term problem but they want to be careful. His concern is they assume and commit to long term operation and maintenance which lets the Forest Service off the hook. Then the local roads will suffer for this decision. He stated he wants to be good partners with the Forest Service, but they can only be so good when there is a lack of funding.

Ken stated the Nez Perce Road has been on the county schedule. The agreement was made for the Forest Service to upgrade the road, and then the county will take it over. Right now their funding avenues are dwindling. Commissioner Chilcott stated he would expect some assistance on the maintenance.

Dave stated there are parts of the East Fork Road dedicated to the county that was paved by the Forest Service. The West Fork Road from the dam to the end is a Forest Highway that received federal funding.

Commissioner Chilcott stated it boils down to money for him. The decisions from back east can change very quickly. His concern is the Secure Rural Schools funding which is being cut for the county. Commissioner Driscoll stated this is an issue that needs to be addressed. Commissioner Rokosch stated the question is determining what a county road is. Commissioner Chilcott stated the prudent thing to do is for the county back away from all Forest Service roads. However, he wants to be a good neighbor.

Dave stated there is a road the county operated for 120 years and now it is gone. He agrees it would be a mutual benefit to find a way to address these concerns. With the help of legislation, there could be a solution.

Michael Howell asked if the previous road agreements with Nez Perce and Roaring Lion were accepted by the county as contracts. Ken gave Michael a copy of the letter from the Commissioners authorizing the work on the Nez Perce Road.

Commissioner Rokosch stated he would like to have a legal opinion before moving forward. Commissioner Driscoll stated she would like to see numbers, road names and statistics.

Ken stated on Hughes Creek Road a gate has been installed and it has been locked for a long time. A resident there is trying to sell sections of land advertising it as being behind a locked gate. However this is a county road with a locked gate on it. Commissioner Driscoll stated the realtor needs to be contacted.

Dave stated he received correspondence from the Forest Service Attorney and County Attorney George Corn. Commissioner Chilcott stated the Board needs to sit down with legal counsel before agreeing to maintenance jurisdiction.

Commissioner Rokosch stated the Forest Service needs to participate in that discussion as well.

Dave stated they will re-evaluate the existing agreements with the Forest Service. Commissioner Rokosch stated the Board will move forward by contacting legal counsel.

In other road issues Dave stated back in the summer of 2004, they began to identify Middle Burnt Road Intersection with Route 269 and Logan Lane as a collector of major traffic. There is a water main that failed and caused the road to sink in. The Town of Stevensville has some concern about their water needs such as adding a third line from the treatment plant at the intersection of South Burnt Fork Road and then abandoning the second line. The Town then had a concern if the high aquifer level was suitable. This issue has taken a lot of time and will not be resolved any time soon. The road has not been maintained prior to the time it sunk. They would like to wait until the Town of

Stevensville decides what to do before they do any road re-construction. The Road Department went ahead and wedged the outside surface of the road in order to provide a more stable driving surface until they could work on the road. At this point in time, they can not recommend doing anything until the Town of Stevensville decides what they are going to do with the water lines. Given the timeframe of several years, can they go in and rehabilitate the existing pavement? The decision is not only a financial one but a political one.

Commissioner Rokosch asked in the terms of a physical easement, has it been abandoned in their existing needs analysis. Dave replied there are two other water lines currently in use. The concept is to put a third one there.

Commissioner Grandstaff asked if something could be done with the road now while they are waiting for the Town of Stevensville. Dave replied they could do something but then it would need to be ripped up when the Town puts in the third water line. He felt it would be a waste of time and taxpayers money.

Michael Howell stated Stevensville was considering drilling wells for water in town. Michael stated the Town is hesitant to abandon the water lines until they identify a well field area. The new site is coming into focus. Dave stated there was no decision made on the infrastructure of the road. Commissioner Chilcott asked Dave if chip sealing is an option for the dips in the road. Dave stated it won't help.

Michael stated the Town is considering a 117 lot subdivision on Middle Burnt Fork Road. They are going to approve an annexation and a subdivision on a county road. Dave replied he has requested the Town require a traffic study from the developers. Michael asked Dave if the impact study describes the impacts of surrounding traffic. Dave replied it will identify the capacity to carry the projected demand. It should include walkways for school children. They are going to be looking at those things and the mitigation should pay for that development.

Commissioner Grandstaff asked if anything could be done before winter. Dave replied no, not with the weather and time of the year. He does not believe any driving hazard exists. Board discussion followed regarding if the road is a driving hazard.

Commissioner Chilcott stated he has received a lot of phone calls regarding this road and asked how they could make the road safer. Dave replied they could consider a speed limit reduction.

Michael stated the seam of going from dirt to pavement is like hitting a curb. He would like to see a "bump" sign. Dave replied they could look at advisory signs for the road. Commissioner Chilcott suggested meeting with the Town and the PCI representative in order to find resolution.

In other business the Board met with Steve Marshall, Owner of Montana Roof Man, in regard to Change Order #3 for the Courthouse roof project. Present were Maintenance

Supervisor Brian Jameson, Human Resources Director Skip Rosenthal, Administrative Assistant Glenda Wiles and Steve Marshall.

Steve stated he did not include the curb extension in the insulation in the change order. Glenda presented the Board with Steve's additional costs which were not within the approved change orders. Commissioner Chilcott asked what they could negotiate. Steve replied he could discount his labor. The added insulation with the cap that was added was discussed. Skip noted the Commissioners have been clear with him to keep track of any additional costs and bring it forward. It was surprising to him that Steve did the work without getting a change order. Steve replied it was not part of the insulation approval (change order #2).

Glenda read the minutes from the previous change order approvals. She then gave specifics to each of the change orders which did not include any materials or labor of this third change order that Steve has now brought forth. Change order number one totaled \$42,780 agreed on August 22nd. Change order number two totaled \$4,200 agreed on October 2nd.

Steve stated he did not address the curb height in the second change order. Commissioner Chilcott stated this additional work was not included in the previous change orders nor was it approved.

Glenda stated while mistakes can be made, Steve should have addressed this change in the height and the need for additional labor and material in change order #2.

The Board negotiated with Steve on a price. Steve stated he is willing to reduce his request to \$3,000, and agree he should have brought this additional labor and material forth to the Commissioners and obtain approval.

Commissioner Grandstaff made a motion to approve Change Order Number Three which addresses the perimeter of the curb height changes and increases the contract by \$3,000. Commissioner Driscoll seconded the motion, all voted 'aye'.